

Declaration of John Pluecker
Exhibit E

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

John Pluecker, Obinna Dennar,
Zachary Abdelhadi, and George Hale,

Plaintiffs,

v.

Case No. 1:18-cv-01100

Ken Paxton, Texas Attorney General;
Board of Regents of the University of Houston
System, in the name of the University of
Houston; the Trustees of the Klein Independent
School District, in the name of the Klein
Independent School District; the Trustees of
the Lewisville Independent School District,
in the name of the Lewisville Independent
School District; and the Board of Regents of
the Texas A&M University System,
in the name of Texas A&M University-
Commerce;
in their official capacities,

Defendants.

**DECLARATION OF JOHN PLUECKER IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

My name is John Pluecker and I declare:

1. I am over the age of eighteen, and I am competent to make this declaration.

I provide this declaration based upon my personal knowledge. I would testify to the facts in this declaration under oath if called upon to do so.

2. I am a plaintiff in this action. I make this declaration in support of the plaintiffs' motion for a preliminary injunction.

3. I am a resident of Houston, Texas. I am a freelance writer, artist, interpreter, translator, and co-founder of an interpretation collaborative called Antena. My work has appeared in literary journals in the U.S. and Mexico. I have translated numerous high-profile books from Spanish and have presented work in numerous art institutions and universities, including Project Row Houses, Blaffer Art Museum, Pratt Institute, CalArts, Hammer Art Museum, and University of Texas–El Paso. I hold degrees from Yale University (B.A.), the University of Houston (M.A.), and the University of San Diego (M.F.A.).

4. As an interpreter and writer, I volunteer my time and talents to various civil rights and immigrant rights organizations. I care deeply about ensuring that members of the public with limited English ability have language access to and involvement in cultural and political movements.

5. Through my involvement in the art community and civil rights advocacy, I have developed friendships with Palestinian artists and political activists and learned about the Palestinian conflict with Israel. I have family members and friends from the U.S. who have worked on issues relating to the oppression of Palestinians, and I have developed a sense of solidarity with Palestinian causes. I am an active supporter of Palestinian rights and liberation, and support art exhibits and presentations, including the annual Houston Palestine Film Festival.

6. I have supported Boycott, Divestment, and Sanctions (“BDS”) campaigns and other nonviolent strategies because I believe in attempts to promote justice and effectuate human rights in Israel and the Palestinian territories. Specifically, I participate

in a BDS boycott campaign against Sabra products to protest that company's support for the Israel Defense Forces ("IDF"), a particularly controversial section of the Israeli military. It would go against my political and moral beliefs to go on record with or sign on to anything perceived to be an anti-BDS statement.

- My support for BDS campaigns is not motivated by my own economic self-interest.

8. As a sole proprietor, my livelihood depends on providing services as a freelance writer, artist, interpreter, and translator.

9. For the past few years, I have contracted with the University of Houston ("UH") as an independent contractor. The contracts I receive from UH represent an important source of income for me.

10. In March of 2018, a representative of the Blaffer Art Museum at UH contacted me to request my services for the translation of an art essay, and provided a Standard Purchasing Agreement for the translation at a fixed price of \$1,500 for an initial term from March 23, 2018 to April 15, 2018. Because of my prior relationship with UH, I agreed on the fee and began work on the translation before I had reviewed or signed the agreement. A true and correct copy of the Standard Purchasing Agreement is attached as Exhibit 1 to this Declaration.

11. Upon reviewing the contract and before signing, I noticed a new provision I had not seen in prior contracts from UH. The Standard Purchasing Agreement contained a No Boycott of Israel certification provision that required me to certify that I do not boycott Israel and will not boycott Israel for the life of the contract.

12. I did not sign the contract. Instead, I crossed out the provision and initialed next to it to indicate my disapproval of that provision in the contract. I then submitted to UH a copy of the contract with the No Boycott of Israel certification crossed out and initialed, indicating I did not agree with this provision. A true and correct copy of the Standard Purchasing Agreement with the crossed out and initialed certification provision is attached as Exhibit 2 to this Declaration.

13. The representative of the Blaffer Art Museum asked a supervisor whether the contract with the redacted provision was acceptable, but was informed that I would have to complete the No Boycott of Israel certification. I refused to sign the contract and was forced to forgo payment for the translation work that I had already begun.

14. I was unwilling to sign the contract because I believed it violated my free speech rights. Specifically, I did not want to forfeit my participation in a BDS boycott campaign against Sabra and my support of pro-Palestinian presentations and art exhibits, nor did I want to disavow my right to participate in BDS boycott campaigns in the future. As such, I could not have certified that I was not engaged in a boycott of Israel without ceasing to participate in political expression that is important to me.

15. A few months later, in September of 2018, a faculty member of UH's Department of Modern and Classical Languages invited me to be a guest speaker and workshop leader to a class of college students for a fee of \$250. However, the Speaker Agreement Form also included a No Boycott of Israel clause. Like the first contract, the second UH contract included a certification that I "[do] not boycott Israel" and "will not

boycott Israel during the term of this Agreement.” A true and correct copy of Speaker Agreement is attached as Exhibit 3 to this Declaration.

16. Once again, I did not sign the second contract because I objected to making the certification. Further, I responded to UH by email correspondence that I would not sign the second contract because “it includes language that requires me to affirm that I am opposed to the boycott of the State of Israel.” A true and correct copy of the email correspondence is attached as Exhibit 4 to this Declaration.

17. UH denied me the contract and the opportunity to be a guest speaker.

18. Although I do not want to sign the No Boycott of Israel certifications, I would like to continue providing professional services under contract with UH. However, I fear that my political boycotts would violate the certifications and subject me to a breach of contract or other risks, including criminal liability for making a false entry on a government record and debarment from future government contracts. If I did sign the certifications, I would feel compelled to discontinue my current boycott activity and forgo any future boycott of Israel.

19. I believe that signing the No Boycott of Israel certifications would be a public declaration on a position that is contrary to my political beliefs and contrary to my current boycott. I fear that my advocacy about pro-Palestinian causes, together with my professional and personal relationships with BDS activists, could lead to suspicion that I am participating in a proscribed boycott. I have also attended numerous events that are in support of the Palestinian cause, and at those events I have made purchases that go towards organizations which may be supportive of BDS campaigns and I am unsure whether un-

actions fall under the rubric of “boycotting” Israel. I believe that if the No Boycott of Israel certification remains in place for all future state university contracts, I would feel pressure not to promote or discuss my affiliations and would likely have to disavow my boycott participation for fear of losing significant sources of income.

20. My support for Palestinian causes and current boycott participation have no bearing on my provision of translation or speaking services to UH’s arts and language departments. I do not, and would not, discriminate against my clients, students or audiences based on any legally protected characteristic. In fact, my professional career revolves around fighting oppression and discrimination through my writings and art.

21. I declare **under** penalty of perjury that the foregoing is true and correct.

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Executed this 3rd day of January, 2019, in HOUSTON, Texas.



John Pluecker

Declaration of John Pluecker
Exhibit 1

Form No: OGC-S-2010-06

Standard Purchasing Agreement

This Standard Purchasing Agreement ("Agreement") is entered into between the University of Houston on behalf of the Department/College/Division/School of Blaffer Art Museum ("University") and John Pluecker ("Contractor"). University and Contractor may be referred to singularly as a "Party" and collectively as the "Parties."

1. **TERM:** The term of this Agreement ("Term") will begin on March 23, 2018 and end on April 15, 2018, unless terminated earlier pursuant to the terms of this Agreement or extended by mutual written agreement of the Parties.
2. **SERVICES:** Insert detailed description of the goods and/or services to be provided by Contractor pursuant to this Agreement ("Services") and attach additional pages if necessary.
Translation from Spanish to English of Peio Aguirre's essay "I am here to stay: Biodispositivos of Sergio Prego"

☐ ← Check here if an exhibit, offer, proposal or other similar document (collectively, "Attachment") is being added as part of this Agreement. Any such Attachment: (i) should be described above in this Section 2 and attached to this Agreement; and (ii) is hereby incorporated by reference. In the event of any inconsistency between the Attachment and this Agreement, this Agreement will prevail.

3. **COMPENSATION:** Check one box only:

☒ **This is a fixed price contract.** University will pay Contractor the amount of \$ 1,500.

☐ **This is not a fixed price contract.** University will pay Contractor an amount not to exceed \$ _____ (based on an hourly fee and/or other method of calculation as follows:

☐ **This is not a fixed price contract and will be performed on a service-order basis.** University will pay Contractor an amount not to exceed \$ _____ (based on service order form(s) to be completed and signed by the Parties, a version of which will be provided to Contractor by University). University will engage Contractor on an "as-needed if needed" basis and does not guarantee the purchase of any quantity or dollar amount of Services.

4. **PAYMENT TERMS:** Contractor shall submit detailed invoices to University describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. University will pay undisputed amounts within thirty (30) days of receiving invoices. Payment terms are subject to Chapter 2251 of the Texas Government Code.
5. **ELIGIBILITY TO RECEIVE PAYMENT:** In accordance with Section 231.006 of the Texas Family Code and Sections 2155.004 and 2155.006 of the Texas Government Code, Contractor certifies that it is not ineligible to receive this Agreement and payments under this Agreement and acknowledges that University may terminate this Agreement and/or withhold payment if this certification is or becomes inaccurate. Contractor acknowledges that, in accordance with Section 403.055 of the Texas Government Code, as applicable, if the Texas Comptroller of Public Accounts is currently prohibited from issuing a warrant to Contractor, Contractor agrees that payments under this Agreement will be applied to the debt or delinquent taxes owed to the State of Texas until the debt or delinquent taxes are paid in full.
6. **CONTRACTOR'S STATUS AND RESPONSIBILITIES:** In performing the Services, Contractor will be deemed an independent contractor and not University's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the Parties. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the Services. Contractor shall perform the Services in strict accordance with this Agreement and in accordance with the highest standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services. ☐ ← Check here if Contractor is an individual and has been a temporary or permanent employee of the State of Texas (including any component of the University of Houston System) within the past two (2) years. If so, Contractor must attach a separate statement setting forth the

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name of the agency or department by which Contractor was employed, the dates of employment, the annual rate(s) of compensation during such employment and the nature of Contractor's assigned duties.

7. **INTELLECTUAL PROPERTY:** Contractor represents that it has all intellectual property rights necessary to enter into and perform its obligations in this Agreement.
8. **OWNERSHIP OF WORK PRODUCT:** All work product, including any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this Agreement will be deemed works for hire and the exclusive property of University. Contractor shall deliver all such materials to University upon completion, termination or cancellation of this Agreement. Any programs, data or other materials furnished by University for use by Contractor in connection with the Services performed under this Agreement will remain University's property.
9. **INDEMNITY:** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless University, its component institutions and each of their directors, officers, agents and employees from and against all liability, loss, expense (including reasonable litigation costs and attorney fees), or claims for injury or damages arising out of the performance of this Agreement (collectively, "Claim") to the extent the Claim arises from the negligence, willful act, breach of contract or violation of law by Contractor, its employees, agents, contractors or subcontractors.
10. **INSURANCE:** Unless an appropriate University representative agrees to waive the requirements by initialing the designated space near the signature block below, Contractor shall comply with the following requirements ("Insurance Requirements"): Contractor shall maintain on a primary basis, at its sole expense the following insurance coverage's described herein. Commercial General Liability insurance coverage of \$1,000,000 per occurrence. If, during the Term, Contractor will enter University property, Contractor shall also maintain the following insurance: (i) Worker's Compensation coverage as required by law with statutory limits for the State of Texas, including Employers Liability coverage of \$1,000,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability Policy or a separate Commercial Auto Liability Policy (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against University. Commercial General Liability and Commercial Automobile Liability policies must name University as Additional Insured. Contractor shall provide Certificates of Insurance evidencing the Insurance Requirements prior to the start of work.
11. **INSPECTION AND ACCEPTANCE OF SERVICES:** University reserves the right to inspect the Services provided under this Agreement at all reasonable times and places during the Term. If any of the Services do not conform to the requirements set forth in this Agreement, University may (i) require Contractor to perform the Services again in conformity with such requirements, with no additional charge to University; or (ii) equitably reduce payment due Contractor to reflect the reduced value of the Services performed. These remedies do not limit other remedies available to University in this Agreement or otherwise available at law.
12. **RISK OF LOSS:** All work performed by Contractor pursuant to this Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by University. In the case of any loss or damage to the work prior to University's acceptance, such loss or damage will be Contractor's responsibility. Delivery of any goods to University pursuant to this Agreement must be FOB destination.
13. **COMPLIANCE:** Contractor shall observe and abide by all applicable local, state and federal laws (including without limitation the Jeanne Clery Act), regulations and University policies and procedures.
14. **CONFIDENTIALITY; DATA PROTECTION:** Subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code) and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval. As applicable, Contractor shall maintain and process all information it receives in compliance with all applicable data protection/privacy laws and regulations and University policies.
15. **PUBLICITY:** Contractor shall not use University's name, logo or other likeness in any press release, marketing material or other announcement without University's prior written approval.
16. **SUBCONTRACTORS:** If Contractor is permitted to subcontract any of the Services, Contractor shall ensure that each subcontractor complies with all provisions of this Agreement. Contractor will remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the Services.

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- 17. PRODUCTS AND MATERIALS PRODUCED IN TEXAS:** In performing its obligations under this Agreement, Contractor shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas. [Section 2155.4441 of the Texas Government Code]
- 18. BONDS:** If applicable to the Services and this Agreement, Contractor shall secure payment and/or performance bonds in accordance with Section 2253.021 of the Texas Government Code upon executing this Agreement.
- 19. AUDIT:** Execution of this Agreement constitutes Contractor's acceptance of the authority of University, the Texas State Auditor and/or their designated representative (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Contractor agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.
- 20. TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.
- 21. DEFAULT:** A Party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
- 22. TERMINATION FOR CONVENIENCE:** University may terminate this Agreement in writing at any time upon providing at least thirty (30) days written notice to Contractor. University will only be liable for payment for Services received prior to the effective date of such termination.
- 23. NOTICE:** Any notice required or permitted by this Agreement must be in writing and addressed to the Party at the address set forth below, or such other address as is subsequently specified in writing. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

To University:
Dept. Name: <u>Blaffer Art Museum</u>
Attn: <u>Katherine Veneman</u>
Address: _____

with a copy to:
Office of the General Counsel
Attn: Contract Administration
311 E. Cullen, Ste. N
Houston, TX 77204-5010

To Contractor:
John Pluecker
Attn: _____
Address: _____

with a copy to:
Attn: _____
Address: _____

- 24. BREACH OF CONTRACT CLAIMS:** To the extent Chapter 2260 of the Texas Government Code is applicable to this Agreement and not preempted by other law, the dispute resolution process provided by Chapter 2260 and the rules adopted by the Texas Attorney General will be used by the Parties to attempt to resolve any claim for breach of contract made by Contractor against University that cannot be resolved in the ordinary course of business.
- 25. FUNDING CONTINGENCY:** University's performance under this Agreement may be dependent upon appropriation of funds by the Texas State Legislature ("Legislature") and/or allocation of funds by University's Board of Regents ("Board"). If the Legislature fails to appropriate the necessary funds or the Board fails to allocate the necessary funds, University may terminate this Agreement without liability by providing written notice to Contractor.
- 26. CONTRACTOR REPRESENTATIONS:** If Contractor is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it is authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in this Agreement; and (iv) the individual executing this Agreement on behalf of Contractor is authorized to do so.
- 27. PUBLIC INFORMATION.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act. In accordance with Section 552.002 of the Texas Public Information Act and Section 2252.907 of the Texas Government Code, and at no additional charge to University, Contractor will make any information

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created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under the Texas Public Information Act) available in a format reasonably requested by University that is accessible by the public.

- 28. WAIVER:** Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as a waiver of any subsequent breach.
- 29. SURVIVAL:** Termination or expiration of this Agreement will not affect the Parties' rights or obligations that, by their nature and context, are intended to survive termination or expiration.
- 30. ELECTRONIC DELIVERY:** Execution and delivery of this Agreement by exchange of email or fax copy containing the signature of a Party will constitute a valid and binding execution and delivery of this Agreement by such Party.
- 31. LIMITATIONS:** Terms and conditions of this Agreement will only be binding on University to the extent permitted by the Constitution and laws of the State of Texas.
- 32. NO FRAUD VIOLATIONS.** Contractor affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.
- 33. NO BOYCOTT:** Contractor certifies and verifies that it (i) does not boycott Israel and (ii) will not boycott Israel during the Term of this Agreement.
- 34. FOREIGN NATIONAL INFORMATION ADDENDUM:** Contractor must check the appropriate box. The Contractor **IS NOT BOTH** an **individual** and a **Foreign National** (i.e., is not a U.S. Citizen or U.S. Resident Alien) ☐ or the Contractor **IS BOTH** an **individual** and a **Foreign National** ☐. A Contractor who is **BOTH** an individual and a Foreign National must complete the Foreign National Information Addendum located on the University of Houston website (<http://www.uh.edu/legal-affairs/contract-administration/contract-documents/amendments-addenda/>) and submit it with this Agreement to the University. This information is required to ensure that the Contractor is eligible to receive payment and that the correct tax withholding, if any, is applied to that payment. The Foreign National Addendum must be submitted to the University at least three weeks before services will be performed under this Agreement. Contractors who are not individuals and Foreign Nationals are not required to attach the Foreign National Information Addendum to this Agreement.
- 35. GOVERNING LAW; VENUE:** This Agreement will be governed by the laws of the State of Texas without regard to choice of law principles. In the event of any suit or action arising from this Agreement, the Parties consent to jurisdiction of the courts in Harris County, Texas.
- 36. MISCELLANEOUS:** This Agreement, together with any Attachment(s), constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, representations and understandings made by the Parties relating to such subject matter. This Agreement may not be amended or otherwise modified except by the written agreement of both Parties. Contractor may not assign this Agreement without University's prior written consent. The invalidity or unenforceability of any provision(s) of this Agreement will not impair the validity and enforceability of the remaining provisions.

Insurance Requirements Waiver – IF the Insurance Requirements are not applicable to the Services or if University otherwise chooses to waive such requirements for purposes of this Agreement, the appropriate University representative from the **Department of Risk Management** may waive the requirements by initialing here: →

Otherwise, Contractor must satisfy the Insurance Requirements specified in this Agreement.

Click Here to Select

Signature: _____

Printed Name: _____

Title: _____

Date: _____

CONTRACTOR:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Declaration of John Pluecker
Exhibit 2

Form No: OGC-S-2010-06

Standard Purchasing Agreement

This Standard Purchasing Agreement ("Agreement") is entered into between the University of Houston _____ on behalf of the Department/College/Division/School of Blaffer Art Museum ("University") and John Pluecker ("Contractor"). University and Contractor may be referred to singularly as a "Party" and collectively as the "Parties."

1. **TERM:** The term of this Agreement ("Term") will begin on upon execution and end on April 15, 2018, unless terminated earlier pursuant to the terms of this Agreement or extended by mutual written agreement of the Parties.
2. **SERVICES:** Insert detailed description of the goods and/or services to be provided by Contractor pursuant to this Agreement ("Services") and attach additional pages if necessary.
Translation from Spanish to English of Peio Aguirre's essay "I am here to stay: Biodispositivos of Sergio Prego"

☐ ← Check here if an exhibit, offer, proposal or other similar document (collectively, "Attachment") is being added as part of this Agreement. Any such Attachment: (i) should be described above in this Section 2 and attached to this Agreement; and (ii) is hereby incorporated by reference. In the event of any inconsistency between the Attachment and this Agreement, this Agreement will prevail.

3. **COMPENSATION:** Check one box only:

☒ **This is a fixed price contract.** University will pay Contractor the amount of \$ 1,500.

☐ **This is not a fixed price contract.** University will pay Contractor an amount not to exceed \$ _____ (based on an hourly fee and/or other method of calculation as follows: _____).

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4. **PAYMENT TERMS:** Contractor shall submit detailed invoices to University describing the Services rendered, the times when such Services were performed, compensable expenses and the amount due. University will pay undisputed amounts within thirty (30) days of receiving invoices. Payment terms are subject to Chapter 2251 of the Texas Government Code.
5. **ELIGIBILITY TO RECEIVE PAYMENT:** In accordance with Section 231.006 of the Texas Family Code and Sections 2155.004 and 2155.006 of the Texas Government Code, Contractor certifies that it is not ineligible to receive this Agreement and payments under this Agreement and acknowledges that University may terminate this Agreement and/or withhold payment if this certification is or becomes inaccurate. Contractor acknowledges that, in accordance with Section 403.055 of the Texas Government Code, as applicable, if the Texas Comptroller of Public Accounts is currently prohibited from issuing a warrant to Contractor, Contractor agrees that payments under this Agreement will be applied to the debt or delinquent taxes owed to the State of Texas until the debt or delinquent taxes are paid in full.
6. **CONTRACTOR'S STATUS AND RESPONSIBILITIES:** In performing the Services, Contractor will be deemed an independent contractor and not University's agent or employee. This Agreement will not be construed to create any partnership, joint venture or other similar relationship between the Parties. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the Services. Contractor shall perform the Services in strict accordance with this Agreement and in accordance with the highest standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services. ☐ ← Check here if Contractor is an individual and has been a temporary or permanent employee of the State of Texas (including any component of the University of Houston System) within the past two (2) years. If so, Contractor must attach a separate statement setting forth the

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name of the agency or department by which Contractor was employed, the dates of employment, the annual rate(s) of compensation during such employment and the nature of Contractor's assigned duties.

7. **INTELLECTUAL PROPERTY:** Contractor represents that it has all intellectual property rights necessary to enter into and perform its obligations in this Agreement.
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9. **INDEMNITY:** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless University, its component institutions and each of their directors, officers, agents and employees from and against all liability, loss, expense (including reasonable litigation costs and attorney fees), or claims for injury or damages arising out of the performance of this Agreement (collectively, "Claim") to the extent the Claim arises from the negligence, willful act, breach of contract or violation of law by Contractor, its employees, agents, contractors or subcontractors.
10. **INSURANCE:** Unless an appropriate University representative agrees to waive the requirements by initialing the designated space near the signature block below, Contractor shall comply with the following requirements ("Insurance Requirements"): Contractor shall maintain on a primary basis, at its sole expense the following insurance coverage's described herein. Commercial General Liability insurance coverage of \$1,000,000 per occurrence. If, during the Term, Contractor will enter University property, Contractor shall also maintain the following insurance: (i) Worker's Compensation coverage as required by law with statutory limits for the State of Texas, including Employers Liability coverage of \$1,000,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability Policy or a separate Commercial Auto Liability Policy (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against University. Commercial General Liability and Commercial Automobile Liability policies must name University as Additional Insured. Contractor shall provide Certificates of Insurance evidencing the Insurance Requirements prior to the start of work.
11. **INSPECTION AND ACCEPTANCE OF SERVICES:** University reserves the right to inspect the Services provided under this Agreement at all reasonable times and places during the Term. If any of the Services do not conform to the requirements set forth in this Agreement, University may (i) require Contractor to perform the Services again in conformity with such requirements, with no additional charge to University; or (ii) equitably reduce payment due Contractor to reflect the reduced value of the Services performed. These remedies do not limit other remedies available to University in this Agreement or otherwise available at law.
12. **RISK OF LOSS:** All work performed by Contractor pursuant to this Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by University. In the case of any loss or damage to the work prior to University's acceptance, such loss or damage will be Contractor's responsibility. Delivery of any goods to University pursuant to this Agreement must be FOB destination.
13. **COMPLIANCE:** Contractor shall observe and abide by all applicable local, state and federal laws (including without limitation the Jeanne Clery Act), regulations and University policies and procedures.
14. **CONFIDENTIALITY; DATA PROTECTION:** Subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code) and any similar legal requirements, neither Party shall disclose any confidential information obtained from the other Party without such Party's prior written approval. As applicable, Contractor shall maintain and process all information it receives in compliance with all applicable data protection/privacy laws and regulations and University policies.
15. **PUBLICITY:** Contractor shall not use University's name, logo or other likeness in any press release, marketing material or other announcement without University's prior written approval.
16. **SUBCONTRACTORS:** If Contractor is permitted to subcontract any of the Services, Contractor shall ensure that each subcontractor complies with all provisions of this Agreement. Contractor will remain liable for the acts and omissions of such subcontractor(s) and the proper performance and delivery of the Services.

Form No: OGC-S-2010-06

17. **PRODUCTS AND MATERIALS PRODUCED IN TEXAS:** In performing its obligations under this Agreement, Contractor shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas. [Section 2155.4441 of the Texas Government Code]
18. **BONDS:** If applicable to the Services and this Agreement, Contractor shall secure payment and/or performance bonds in accordance with Section 2253.021 of the Texas Government Code upon executing this Agreement.
19. **AUDIT:** Execution of this Agreement constitutes Contractor's acceptance of the authority of University, the Texas State Auditor and/or their designated representative (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Contractor agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.
20. **TIME IS OF THE ESSENCE:** Time is of the essence in the performance of this Agreement.
21. **DEFAULT:** A Party will be in default of this Agreement if such Party fails to comply with any obligation in this Agreement and such failure continues for ten (10) days after receiving written notice from the non-defaulting Party. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Agreement as of the date specified in the notice, and may seek other relief as provided by law.
22. **TERMINATION FOR CONVENIENCE:** University may terminate this Agreement in writing at any time upon providing at least thirty (30) days written notice to Contractor. University will only be liable for payment for Services received prior to the effective date of such termination.
23. **NOTICE:** Any notice required or permitted by this Agreement must be in writing and addressed to the Party at the address set forth below, or such other address as is subsequently specified in writing. Notices will be effective as of the date: (i) delivered by hand, (ii) delivered by national courier service or Registered/Certified Mail, postage prepaid, return receipt requested, or (iii) received by facsimile.

To University:

Dept. Name: Blaffer Art Museum

Attn: Katherine Veneman

Address: _____

with a copy to:

Office of the General Counsel

Attn: Contract Administration

311 E. Cullen, Ste. N

Houston, TX 77204-5010

To Contractor:

John Pluecker

Attn: _____

Address: _____

with a copy to:

Attn: _____

Address: _____

24. **BREACH OF CONTRACT CLAIMS:** To the extent Chapter 2260 of the Texas Government Code is applicable to this Agreement and not preempted by other law, the dispute resolution process provided by Chapter 2260 and the rules adopted by the Texas Attorney General will be used by the Parties to attempt to resolve any claim for breach of contract made by Contractor against University that cannot be resolved in the ordinary course of business.
25. **FUNDING CONTINGENCY:** University's performance under this Agreement may be dependent upon appropriation of funds by the Texas State Legislature ("Legislature") and/or allocation of funds by University's Board of Regents ("Board"). If the Legislature fails to appropriate the necessary funds or the Board fails to allocate the necessary funds, University may terminate this Agreement without liability by providing written notice to Contractor.
26. **CONTRACTOR REPRESENTATIONS:** If Contractor is a business entity, it represents that: (i) it is duly organized, validly existing and in good standing under the laws of the state of its organization; (ii) it is authorized and in good standing to conduct business in the State of Texas; (iii) it has all necessary power and has received all necessary approvals to execute and perform its obligations in this Agreement; and (iv) the individual executing this Agreement on behalf of Contractor is authorized to do so.
27. **PUBLIC INFORMATION.** University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act. In accordance with Section 552.002 of the Texas Public Information Act and Section 2252.907 of the Texas Government Code, and at no additional charge to University, Contractor will make any information

Form No: OGC-S-2010-06

created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under the Texas Public Information Act) available in a format reasonably requested by University that is accessible by the public.

28. **WAIVER:** Waiver by either Party of a breach or violation of any provision of this Agreement will not operate as a waiver of any subsequent breach.
29. **SURVIVAL:** Termination or expiration of this Agreement will not affect the Parties' rights or obligations that, by their nature and context, are intended to survive termination or expiration.
30. **ELECTRONIC DELIVERY:** Execution and delivery of this Agreement by exchange of email or fax copy containing the signature of a Party will constitute a valid and binding execution and delivery of this Agreement by such Party.
31. **LIMITATIONS:** Terms and conditions of this Agreement will only be binding on University to the extent permitted by the Constitution and laws of the State of Texas.
32. **NO FRAUD VIOLATIONS.** Contractor affirms that it has not been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds and that it does not employ officers or employees that have been convicted of, or pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds.
- ~~33. **NO BOYCOTT:** Contractor certifies and verifies that it (1) does not boycott Israel and (2) will not boycott Israel during the Term of this Agreement.~~ JP
34. **FOREIGN NATIONAL INFORMATION ADDENDUM:** Contractor must check the appropriate box. The Contractor **IS NOT BOTH** an **individual and a Foreign National** (i.e., is not a U.S. Citizen or U.S. Resident Alien) ☐ or the Contractor **IS BOTH** an **individual and a Foreign National** ☐. A Contractor who is **BOTH** an individual and a Foreign National must complete the Foreign National Information Addendum located on the University of Houston website (<http://www.uh.edu/legal-affairs/contract-administration/contract-documents/amendments-addenda/>) and submit it with this Agreement to the University. This information is required to ensure that the Contractor is eligible to receive payment and that the correct tax withholding, if any, is applied to that payment. The Foreign National Addendum must be submitted to the University at least three weeks before services will be performed under this Agreement. Contractors who are not individuals and Foreign Nationals are not required to attach the Foreign National Information Addendum to this Agreement.
35. **GOVERNING LAW; VENUE:** This Agreement will be governed by the laws of the State of Texas without regard to choice of law principles. In the event of any suit or action arising from this Agreement, the Parties consent to jurisdiction of the courts in Harris County, Texas.
36. **MISCELLANEOUS:** This Agreement, together with any Attachment(s), constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, representations and understandings made by the Parties relating to such subject matter. This Agreement may not be amended or otherwise modified except by the written agreement of both Parties. Contractor may not assign this Agreement without University's prior written consent. The invalidity or unenforceability of any provision(s) of this Agreement will not impair the validity and enforceability of the remaining provisions.

Insurance Requirements Waiver – IF the Insurance Requirements are not applicable to the Services or if University otherwise chooses to waive such requirements for purposes of this Agreement, the appropriate University representative from the **Department of Risk Management** may waive the requirements by initialing here: →

Otherwise, Contractor must satisfy the Insurance Requirements specified in this Agreement.

Click Here to Select
Signature: _____
Printed Name: _____
Title: _____
Date: _____

CONTRACTOR:
Signature: 
Printed Name: JOHN PLUECKER
Title: TRANSLATOR
Date: 4/5/2018

Declaration of John Pluecker
Exhibit 3

Form No. OGC-S-2002-3

Speaker Agreement Form

This Agreement is entered into as of 09/20/18 between the University of Houston through the Department of Modern and Classical Languages ("University") and John Pluecker ("Speaker").

In consideration of the mutual promises and agreements of the Parties hereto, as hereinafter set forth, it is agreed as follows:

Speaker: John Pluecker

Title of Presentation: "Translating Feeling, Transforming Politics"

Date(s): 09/20/18

Time(s): 10AM

Location(s): AH16

Additional Terms: _____

Compensation (fees/honoraria): \$250

Other Expenses (receipts required): _____

Any terms unfilled may be cause for renegotiation or non-payment. Either party may terminate this Agreement with 15 days written notice. Speaker is an independent contractor and not an agent or employee of University.

Speaker agrees to indemnify and hold harmless University from any claim, damage, liability, injury, expense, or loss arising out of Speaker's performance under this Agreement.

ELIGIBILITY TO RECEIVE PAYMENT: In accordance with Section 231.006 of the Texas Family Code and Sections 2155.004 and 2155.006 of the Texas Government Code, Speaker certifies that it is not ineligible to receive this Agreement and payments under this Agreement and acknowledges that University may terminate this Agreement and/or withhold payment if this certification is or becomes inaccurate. Speaker acknowledges that, in accordance with Section 403.055 of the Texas Government Code, as applicable, if the Texas Comptroller of Public Accounts is currently prohibited from issuing a warrant to Speaker, Speaker agrees that payment under this Agreement will be applied to the debt or delinquent taxes owed to the State of Texas until the debt or delinquent taxes are paid in full.

Form No. OGC-S-2002-3

ISSUING PAYMENT: University will issue payment to Speaker following Speaker's performance of services and receipt of Speaker's invoice and expense receipts (if any) and such payment shall not exceed the amount indicated in this Agreement. University shall pay Speaker using ACH direct deposit, unless Speaker does not have a US bank account, in which case other payment arrangements will be made.

NO BOYCOTT: If Speaker is a "company", as that term is defined in Section 808.001 of the Texas Government Code, then Speaker certifies and verifies that Speaker: (i) does not boycott Israel and (ii) will not boycott Israel during the term of this Agreement.

AUDIT: Execution of this Agreement constitutes Speaker's acceptance of the authority of University, the Texas State Auditor and/or their designated representative (collectively, "Auditor") to conduct audits or investigations in connection with this Agreement. Speaker agrees to cooperate with the Auditor conducting such audits or investigations and to provide all information and documents reasonably requested.

FOREIGN NATIONAL ADDENDUM REQUIRED: Speaker must check the appropriate box. The Speaker **IS NOT BOTH** an **individual** and a **Foreign National** (i.e., is not a U.S. Citizen or U.S. Resident Alien) ☐ or the Speaker **IS BOTH** an **individual** and a **Foreign National** ☐. A Speaker who is **BOTH** an individual and a Foreign National must complete the Foreign National Information Addendum located on the University of Houston website (<http://www.uh.edu/legal-affairs/contract-administration/contract-documents/amendments-addenda/>) and submit it with this Agreement to the University. This information is required to ensure that the Speaker is eligible to receive payment and that the correct tax withholding, if any, is applied to that payment. The Foreign National Addendum must be submitted to the University at least three weeks before services will be performed under this Agreement. Speakers who are not Foreign Nationals are not required to attach the Foreign National Information Addendum to this Agreement.

GOVERNING LAW AND DISPUTE RESOLUTION: This Agreement shall be construed under the laws of the State of Texas, and venue in any action brought hereunder shall be in Harris County, Texas. University and Speaker acknowledge that any dispute pertaining to this Agreement shall be governed by Texas Government Code Section 2260.

Click Here to Select**SPEAKER**

Signature _____ Date _____

Name: Hildegard Glass

Title: Chair

Signature _____ Date _____

Name: John Pluecker

Title: Freelance Translator and Interpreter

Signature _____ Date _____

Name: James R. Mckee

Title: Executive Director, College Business Operatio

Signature _____ Date _____

Business: _____

Address: _____

Note: Modification of this Form requires OGC Approval

Declaration of John Pluecker
Exhibit 4

From: John Pluecker

[REDACTED] Date: Wed, Sep

12, 2018 at 1:56 PM

Subject: Re: speaker agreement to sign

To: Julie Tolliver [REDACTED]

Hi Julie,

Sorry for the delay in responding. Unfortunately, I am not willing to sign this contract, because it includes language that requires me to affirm that I am opposed to the boycott of the State of Israel. I work as a sole proprietorship, and therefore I legally function as a "company" per the Texas Governmental Code. I believe that this clause of the contract is an infringement on my First Amendment rights. In addition, I am an active supporter of Palestinian rights and liberation, and I support non-violent strategies, like the boycott, to attempt to realize justice in Israel/Palestine.

I'm unwilling to sign the contract for these reasons. This is the second time that I am refusing to sign a UH contract with this language. The first time was in the Spring when I had to also reject a \$1500 translation contract with Blaffer Art Museum at UH. This is an unfortunate state of affairs, but I remain of the mind that if no one speaks out and no one rejects these intrusions into our political and social rights, then we are surely on an even more slippery slope to injustice.

All best, JP

John Pluecker

Cel) [REDACTED]

WWW) [My Site](#) + [Antena](#)

Check out my book [Ford Over](#) and my translations of Sara Uribe's [Antígona González](#) and Sayak Valencia's [Gore Capitalism](#)

On Wed, Sep 12, 2018 at 10:52 AM Julie Tolliver [REDACTED] wrote:

Dear JP,

Have you had a chance to look at the agreement? Is everything about it ok? Let me know if not. When you have the chance, please sign, scan and return to me so we can get you in the system.

And yes, UH can mail a check to your house instead of doing direct deposit.

All best,

Julie